

REMARKS

Claims 1 and 2 are pending in this application. Both of the pending claims are rejected. Claim 1 is currently amended. Reconsideration is requested.

In the previously submitted Appeal Brief, the first two arguments advanced by Applicant are that the claims distinguish the prior art by (1) transmitting an announce message indicative of *intentional* transmission power attenuation; and (2) including in that message an indication of the magnitude by which transmission power has been *intentionally* reduced. The Office indicated that those arguments were persuasive, but that the features are described in the newly cited reference, U.S. 6,157,626 of Nakamura et al. In particular, the Examiner cites the “perch channel **transmission attenuation value**” (emphasis added) at column 5, lines 28-34 as being equivalent to the recited presence announce message indicative of *intentional* transmission power attenuation, and the indication of the magnitude by which transmission power has been *intentionally* reduced. Applicant respectfully traverses. Generally, transmission power is attenuated in different ways. For example, transmission power is attenuated as a function of distance from the transmitter, i.e., over-the-air attenuation. Transmission power is also attenuated by obstacles between the transmitter and receiver, i.e., also over-the-air attenuation. Short of moving the transmitter and receiver closer together and removing obstacles, over-the-air transmission power attenuation is a natural condition that cannot be changed and has nothing to do with *intent*. Transmission power can also be attenuated by intentionally decreasing transmitter power. In other words, the amount of electrical energy that a wireless device puts into a transmitter to cause a signal to be transmitted can be intentionally reduced in order to transmit a weaker signal, i.e., before the signal ever reaches the air. Note in the passage at column 2, lines 4-11, Nakamura states that the **value of transmission attenuation** depends on

distance from the base station. Figure 2 also shows that transmission attenuation is a function of mobile station position, which is related to distance. Consequently, the perch channel **transmission attenuation value** cited by the Examiner is over-the-air transmission attenuation which is a function of distance, and is not intentional. In contrast, the claimed indication of transmission power attenuation is the intentional attenuation at the transmitter. Note that if the transmitter reduces its power by, e.g., 2 dB, that value is not a function of distance or position because it is an indication of the condition at the transmitter. In order to clarify this distinction even further, claim 1 has been amended to recite “transmitter power” rather than “transmission power.” Applicant finds no suggestion in Nakamura or any other of the cited references that a wireless device should intentionally reduce its transmitter power and send a message indicative of the amount by which the power has been reduced at the transmitter. Withdrawal of the rejections is therefore requested.

Applicant has made a diligent effort to place the claims in condition for allowance. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone Applicants' Attorney at the number listed below so that such issues may be resolved as expeditiously as possible. For these reasons, and in view of the above amendments, this application is now considered to be in condition for allowance and such action is earnestly solicited.

Respectfully Submitted,

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Date

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